



Report of Investigation 06 June 2014

Hotline Case Number 201400336

I. Investigator(s), Identifying Information, and Location of Working Papers

A. **Investigator(s) and Identifying Information.** (b) (6), (b) (7)(C)
Investigator, Office of the Inspector General, N00IC, (b) (6), (b) (7)(C) Military Sealift
Command (COMSC), Telephone: (b) (6), (b) (7)(C) or DSN (b) (6), (b) (7)(C), e-mail:
(b) (6), (b) (7)(C).

B. **Location of Working Papers.** Commander, Military Sealift Command (COMSC),
Office of the Inspector General, ATTN: Office of the Inspector General, N00I, 914
Charles Morris Court, SE, Washington Navy Yard, DC 20398-5540.

C. **Security Classification of Information:** UNCLASSIFIED

II. Background and Summary

A. Hotline Case Number #201400336 was initiated by a 04 February 2014 email
submitted by an anonymous complainant to "All Users" of MSC's Outlook email
system alleging time and attendance violations, alcoholism, and favoritism. On the
same day, (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), forwarded the complaint to
MSC's Office of the Inspector General.

B. Upon receipt of the complaint, the MSC IG received tasking from COMSC to visit USNS
JOHN LENTHALL (T-AO 187) and conduct focus groups to assess the ship's command
climate. The (b) (6), (b) (7)(C) of the vessel was notified of the allegations and informed that
the IG and Investigating Officer were planning to board the ship on 22 March 2014 in
Souda Bay, Greece. A Command Climate Survey was produced prior to the ship visit
and was completed by approximately 80% of the crew during the time period of 03-
14 March 2014.

C. During the course of the time onboard JOHN LENTHALL the Inspector General
determined to conduct additional interviews to address the written allegations
against the (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C).

Summary of Complaint

An anonymous complainant alleged that the (b) (6), (b) (7)(C) of USNS JOHN LENTHALL (T-AO 187) (b) (6), (b) (7)(C), "while in port Norfolk never comes to work". The complainant went on to assert that "She only comes in for a meeting or when she knows someone is coming to the ship to see her". In complainant's view --

This is outrageous that the (b) (6), (b) (7)(C) can take all the time off she needs and not be charged leave and this benefits her for when she has to take off for an emergency or something and she can because she has a lot of time saved up because she is abusing her power.

The complainant also complained about (b) (6), (b) (7)(C), the ship's (b) (6), (b) (7)(C). According to the complainant, (b) (6), (b) (7)(C) had violated command time and attendance policy by failing to take leave when he departed the ship and by failing to require crewmembers to use leave when departing the ship. Complainant also alleged that (b) (6), (b) (7)(C) frequently smelled of alcohol during morning musters and on several occasions had to be escorted to his stateroom because he was inebriated.

Additional Information

1. No evidence was uncovered to indicate that (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), USNS JOHN LENTHALL (T-AO 187) had taken, but had not been charged for, leave in calendar year 2013 so that allegation was dismissed.
2. Evidence collected suggests that the members of the crew of USNS JOHN LENTHALL have on occasion been permitted to take as much as a full day off without being charged leave in violation of DoD guidelines. FMR, Volume 8, Ch. 2, Section 020304 states all leave types will be charged to employees for days, hours, or fractions of hours. Discussions and interviews with the crew suggest that this may be an issue throughout the MSC CIVMAR-manned fleet.
 - a. (b) (6), (b) (7)(C), USNS JOHN LENTHALL, when asked if crew taking the day after Thanksgiving (29 November 2013) off were charged leave, stated –
 - 1) I know in my chain of command we wanted everybody to submit a leave chit but we essentially were like Thursday is an actual holiday and we didn't expect people to be in on Friday. Were people charged leave? I don't recall if they were or not.
 - 2) Asked if he had charged his subordinates for leave on 29 November 2013, (b) (6), (b) (7)(C) replied, "I have five Bosun Mates in my chain of command and I don't believe I did."

b. (b) (6), (b) (7)(C) , USNS JOHN LENTHALL, when asked what he knew about possible time and attendance violations, said --

1) I came aboard on 27 December [2013]. It happened before and kind of after I came. All I know is people were on holiday vacation". ... People would come in for several hours, do whatever they have to do, and then they would go home. You know how the holidays work. You come in and you do what you need to do and the department head lets you go. The same thing with the (b) (6), (b) (7)(C) , she came in, did what she had to do, and she left, the same thing with the (b) (6), (b) (7)(C) . A lot of that stuff happened before I got here.

2) Asked if he thought the crewmembers should have been charged for leave if they were released early during the holiday season or were not expected to return to work the day after Thanksgiving, (b) (6), (b) (7)(C) replied --

... they probably should have, it all depends on the ship and (b) (6), (b) (7)(C) and the Department Heads how they run things. If a person wants three hours off to go to a medical or to the exchange they do file a leave chit to cover themselves in case something happens to them. You know, they're covered. ... Even a day off, you should have a leave chit. Whether the Department Head charges them leave, that's up to them. ... I've been 15 years now with MSC so I've seen it handled that way depending on the ship. The Captain makes the policy.

3) When asked about the process used to account for leave, (b) (6), (b) (7)(C) explained ---

Department Heads make the leave entries. The only leave entries I make would be for ship-funded leave because that's a longer period of time. But then the Department Head would submit me the leave chits (for ship-funded leave) and I would put it in the payroll.

c. When interviewed, (b) (6), (b) (7)(C) said --

1) I'm not aware of anybody getting *carte blanche* the day after Thanksgiving. But after a rough couple of weeks you pull in, absolutely, hey, knock everybody off after coffee, it's definitely happened.

2) Asked how she accounted for each crewmember's time when released early, (b) (6), (b) (7)(C) replied --

The way I accounted for it was I can't give these people an award. They were out there working their asses off for me in sea state 5, emergency breakaways. No one got hurt. Responding to the ship. ... Yes. I knock them off early. And they didn't get charged leave.

- 3) Asked about crewmembers taking the day after Thanksgiving off without being charged leave (b) (6), (b) (7)(C) said --

If it happened, it happened without me knowing. And I haven't seen that in my time at MSC where people were allowed to take a day off after Thanksgiving.

3. Disregarding or lax adherence to the regulations on time and attendance may not be a problem limited to the crew of the USNS JOHN LENTHALL. As stated by the (b) (6), (b) (7)(C), a 15 year veteran of MSC, some Masters have a tendency to allow crewmembers to shut down early without charging them for leave. Furthermore, department heads on MSC ships mistakenly believe they have the discretion to withhold submission of leave slips provided by crew members for time off and for all practical purposes inappropriately permit the use of administrative leave.

4. DoDI 1400.25-V610, Enclosure at Paragraph 2(b)(1) states:

Group dismissal should be rare and authorized only when conditions are severe or normal operations would be significantly disrupted. This authority may not be used to create the effect of a holiday (to include activity down days and training days).

5. DoDI 1400.25-V630, Enclosure at Paragraph 6a, states:

Excused absence refers to an authorized absence from duty without loss of pay and without charge to other paid leave. Periods of excused absence are considered part of an employee's basic workday even though the employee does not perform his or her regular duties (e.g., an employee who performed duty for 36 hours and was granted 4 hours of excused absence would be paid for 40 hours even though the employee only performed 36 hours of regular duty). Consequently, the authority to grant excused absence must be used sparingly.

D. Summary of the Outcome of Investigation

1. The portion of the complaint that the master of USNS JOHN LENTHALL (T-AO 187) (b) (6), (b) (7)(C), "while in port Norfolk never comes to work" and "she only comes in for a meeting or when she knows someone is coming to the ship to see her" was focused on dates (13 and 29 November 2013) in which we had specific

information corroborated with documentation. The general comment that she “never comes to work” was dismissed even though a number of crewmembers reported that (b) (6), (b) (7)(C) routinely did not come to the ship, arrived late or left early. No witness was able to provide any further specific dates or times when the (b) (6), (b) (7)(C) was allegedly absent. Also, information obtained by overhearing walkie-talkie transmissions and resulting from observations made while working aloft is of questionable value and insufficient to support substantiated findings. It was noted during the investigation that there is no fleet wide process or procedure that accurately tracks the Master’s presence onboard the ship.

2. Evidence gathered during the investigation did not support the allegations against (b) (6), (b) (7)(C), of alcohol abuse and favoritism. Feedback from focus groups and interviews identify a high level of confidence in the leadership of the USNS JOHN LENTHALL and there were no concerns expressed about favoritism.
3. Though some witnesses told the investigator that members of deck department were allowed to take time off without being charged leave, the allegations that the (b) (6), (b) (7)(C) permitted crewmembers to take time off without being charged for leave could not be corroborated with any records.
4. Evidence gathered during the investigation did not support the allegations that the (b) (6), (b) (7)(C) took time off without being charged for leave.
5. The investigation revealed non-compliances with DoD Financial Management Regulation (FMR) guidelines for time and attendance. Statements taken suggest that similar non compliances may be occurring throughout the MSC fleet.

III. Allegations

A. **Allegation 1:** (b) (6), (b) (7)(C), during the time period of 12 November 2013 and 30 November 2013 while serving as (b) (6), (b) (7)(C), USNS JOHN LENTHALL (T-AO 187), approved and certified as accurate time and attendance records for herself that she knew contained materially false or incorrect entries to wit: eight hours of official duty work on 13 November 2013 not performed and eight hours of official duty work on 29 November 2013 not performed in violation of 18 U.S.C. §1001 and DoD 7000.14-R, FMR Volume 8, Ch 2.

1. Findings/Facts

a. Standards

- 1) 18 U.S.C. §1001; Statements of entries generally.

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial

branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

2) DoD 7000.14-R, FMR, Volume 8, Ch. 2, Section 020102. Introduction.

B. Approving Official's/ Supervisor's Responsibility.

1. When approving T&A, all supervisors, other equivalent officials, or higher level managers must certify that, to the best of their knowledge, the actual work schedules recorded are accurate. ...

3) DoD 7000.14-R, FMR Volume 8, Ch 2, Section 020201. Daily Record of Time.

For each civilian employee, a daily record of time spent in pay and non-pay status must be maintained either by a designated timekeeper, who takes no part in preparing the payroll, or by automated or electronic devices, unless otherwise prohibited. When such devices are used, adequate supervisory surveillance must be maintained to ensure proper and accurate time recording.

4) DoD 7000.14-R, FMR Volume 8, Ch 2, Section 020406. Approval of T&A by Employee.

Employees are generally prohibited from approving their own T&A. Exceptions to this general prohibition apply only when it is not feasible for employees to have their T&A approved by a supervisor. In such instances, the Component head or his or her designee must grant an official authorization in writing in order for the employee to approve his or her

own T&A. An employee may be authorized to approve his or her own T&A under the following circumstances:

- A. The employee works alone at a remote site for long periods;
- B. The employee is based at, but frequently away from, the location of their supervisor and timekeeper during working hours; or
- C. The employee is the head of an organization within an agency that has no supervisor on site.

5) DoD 7000.14-R, FMR, Volume 8, Ch. 5, Section 050301. Sick Leave General:

Under 5 U.S.C. 6307 and 5 C.F.R. 630 subparts B and D, sick leave is authorized for personal medical needs, care of a family member, care of a family member with a serious health condition, adoption-related purposes and for bereavement. See section 050304 for authorized uses for sick leave.

6) DoD 7000.14-R, FMR, Volume 8, Ch. 5, Section 050304. Authorized Uses for Sick Leave:

A. Granting Sick Leave. Pursuant to **5 C.F.R. 630.401**, an agency must grant sick leave to an employee when the employee: ...

- 2. Receives medical, dental, or optical examination or treatment; ...

7) DoD 7000.14-R, FMR, Volume 8, Ch. 5, Section 051201. Excused Absences (Administrative Leave) General:

Excused absence is an absence from duty, administratively authorized, without loss of pay and without charge to leave. Excused absence is also referred to as administrative leave. Agencies have discretionary authority to grant excused absence to the extent that it does not interfere with agency operations. Periods of excused absence are considered part of an employee's basic workday even though the employee does not perform regular duties. The following are some of the more common situations in which agencies generally excuse absence without charge to leave.

8) CMPI 610, Hours of Work & Premium Pay, Section 4-26, Paragraph (F)(3)

In Port. The **b6 b7c** is expected to be on-call 24/7 without payment of additional compensation. If the **b6 b7c** is required to perform work in excess of the one (1) hour minimum, the first hour worked shall be

charged as daily minimum, and subsequent hours worked will be charged to the appropriate duty code, as compensatory time. The work performed is to be of a skill and responsibility level appropriate to the Master's position, and be of an immediate concern.

b. Relevant Activities and Events

- 1) Masters onboard MSC Government Operated Vessels certify their own time cards.
- 2) USNS JOHN LENTHALL was docked in port at the Norfolk Naval Base in Norfolk, Virginia during the period 12 November 2013 - 02 January 2014.
- 3) (b) (6), (b) (7)(C) in Chesapeake, Virginia which is within commuting distance (< 30 miles) to Norfolk Naval Station where USNS JOHN LENTHALL was docked.
- 4) On 12 November 2013, (b) (6), (b) (7)(C) notified (b) (6), (b) (7)(C), MSC Norfolk, that she'd scheduled a dental appointment in Chesapeake, VA for 13 November 2013 and after (b) (6), (b) (7)(C) coordinated with MSCLANT he passed approval of the request to be off the ship for the day.
- 5) Despite (b)(6)(b)(7)(c) approved absence from the ship on 13 November 2013, Official time and attendance records show she was not charged leave for 13 November 2013.
- 6) (b) (6), (b) (7)(C) was serving as (b) (6), (b) (7)(C) of USNS JOHN LENTHALL during the time period of 12 November 2013 – 30 November 2013.
- 7) (b) (6), (b) (7)(C) believes she should not have been charged leave 13 November 2013 because she was working by cell phone while at the dentist office. (b) (6), (b) (7)(C) further stated that "I'm aware of the CMPI that says I'm available 24/7. (b)(6)(b)(7)(c) are considered 24 hour employees".
- 8) (b) (6), (b) (7)(C) receives four hours of sick leave per two week pay period.
- 9) On 20 November 2013, (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C), MSC Norfolk, and (b) (6), (b) (7)(C), MSC Norfolk, to request approval to "leave town" from 28 November – 01 December 2013.

- 10) For that period only 29 November 2013 (Friday after Thanksgiving holiday) was considered a work day since the other days fell on the holiday and weekend.
- 11) (b) (6), (b) (7)(C) was absent from the USNS JOHN LENTHALL on 29 November 2013; official time and attendance records show (b) (6), (b) (7)(C) was not charged leave for 29 November 2013.
- 12) When asked to provide information on her time and attendance for 29 November, (b) (6), (b) (7)(C) responded "It actually looks like I forgot to have the purser put myself in for the leave. So this would have been Friday, I guess, of Thanksgiving. Because Thursday is Thanksgiving Day."
- 13) When asked if she should have been charged leave on 29 November 2013 (b) (6), (b) (7)(C) responded "Yes".

2. Analysis and Discussion

- a. 13 November 2013 Dental Visit. (b) (6), (b) (7)(C) informed the Class Manager and the East Coast Port Captain that she was going to be off the ship on 13 November 2013 for a dental appointment. When interviewed, she stated that she did not need to document her absence from the ship as sick or annual leave because she was working via cell phone. (b) (6), (b) (7)(C) cited CMPI 610, Hours of Work & Premium Pay, Section 4-26, Paragraph (F)(3) which states (b)(6)(b)(7)(c) are expected to be "on-call 24/7" in support of her position. The requirement to be "on-call" 24/7 does not make one a 24/7 employee. The (b) (6), (b) (7)(C) is mistaken if she believes that because she is on-call 24/7, she can be anywhere during the work day. The "on-call" provision is designed to make a (b)(6)(b)(7)(c) available to address shipboard issues after hours while at the same time restricting his or her ability to claim for excessive overtime for every telephone call or text message. Whether "on call" or not, the employee is required to account for his or her time and to put in the required number of work hours. An employee can reschedule hours worked with his or her supervisor to accommodate the need to be absent from the workplace without taking leave, but employee must take leave if he or she does not make up absences from the workplace.
- b. 29 November 2013 (Day after Thanksgiving). (b) (6), (b) (7)(C) informed the Class Manager and East Coast Port Captain that she was going to be off the ship 28 November to 01 December 2013 for the Thanksgiving holiday weekend. She admitted that it was an oversight that she did not file for leave on Friday, 29 November. When asked if she should have she replied in the affirmative.

- c. In both cases (b) (6), (b) (7)(C) certified her time card for the appropriate pay period that the time on 13 November 2013 at her dentist appointment and 29 November 2013 while spending time with family as official time when she was in fact off the ship.

3. Conclusion. This allegation is **substantiated**.

4. Recommendation. N1 review and take corrective action, up to and including disciplinary action if appropriate, to correct the (b) (6), (b) (7)(C) T&A records and to minimize the risk of reoccurrence.

5. Disposition. (b) (6), (b) (7)(C) submitted an email on 25 March 2014 stating that she modified her T&A records in DHMS to account for the full day of leave for 29 November 2013. However, (b) (6), (b) (7)(C), CIVMAR Payroll Division Head, MSC Norfolk, reported on 25 April 2014 that as of that date no adjustment had been made to (b) (6), (b) (7)(C) leave records.

(b) (6), (b) (7)(C) did not report making any modification to her leave record for 13 November 2013.

B. **Allegation 2:** That (b) (6), (b) (7)(C), USNS JOHN LENTHALL (T-AO 187), between January 2013 and February 2014, reported for watch and/or duty under the influence of alcohol in violation of Civilian Marine Personnel Instruction (CMPI) 750, Encl 6-1, Ship's Orders #13.

1. Findings/Facts

a. Standard

1) Civilian Marine Personnel Instruction 750, Encl 6-1, Ship's Orders 13

Crewmembers shall not be under the influence of alcohol/intoxicants or unlawful drugs when reporting for watch or duty or on watch or duty.

b. Relevant Activities and Events

1) The (b) (6), (b) (7)(C) USNS JOHN LENTHALL, was identified in the complaint as one of two crewmembers who, on multiple occasions, had to carry (b) (6), (b) (7)(C) to his stateroom because of his inebriated state.

2) (b) (6), (b) (7)(C) was assigned duties as the (b) (6), (b) (7)(C), during the time frame of the investigation.

3) (b) (6), (b) (7)(C) stated "I can tell you definitively I've never had to do that. In my time here, I've been here coming up on 10 months, I've never had any issue at sea or in port where I've had to take anybody to their stateroom, let alone the (b) (6), (b) (7)(C) ".

4) (b) (6), (b) (7)(C) stated "that [the allegation regarding the (b) (6), (b) (7)(C) drunkenness] is absolutely not true. What's in the email is not true at all".

4) None of the 10 individuals interviewed during the investigation offered testimony or information that would tend to support the allegation.

2. Analysis and Discussion

a. Of the 10 interviews conducted onboard the USNS JOHN LENTHALL, none produced information in corroborating the allegation of drunkenness on duty against the (b) (6), (b) (7)(C).

3. Conclusion. This allegation is **not-substantiated**.

4. Recommendation. None.

5. Disposition. None.

IV. Documents:

A. 04 February 2014 Anonymous Email Re: Hotline Complaint

B. 18 USC 1001

C. DoD 7000.14-R, FMR, Volume 8, Ch. 2, Section 020303. Verification of Leave Charges

D. DoD 7000.14-R, FMR, Volume 8, Ch. 2, Section 020304. Leave Charges

E. DoD 7000.14-R, FMR, Volume 8, Ch. 2, Section 020402. Time and Attendance (T&A) Certification

F. CMPI 610, Hours of Work & Premium Pay, Section 4-26, Paragraph (F)(3)

G. (b) (6), (b) (7)(C), Annual Leave and Earnings Statement dated 12/14/13

H. 12 November 2013 (b) (6), (b) (7)(C) Email Requesting Leave for Dental Appointment

I. 25 March 2014 (b) (6), (b) (7)(C) Email Re: Leave Record Adjustment

J. 25 April 2014 (b) (6), (b) (7)(C) Email Re: (b) (6), (b) (7)(C) Leave Record Adjustment Status

V. Witnesses:

A. (b) (6), (b) (7)(C)

B. (b) (6), (b) (7)(C)

C. (b) (6), (b) (7)(C)

D. MSO (b) (6), (b) (7)(C)

E. Boatswain (b) (6), (b) (7)(C)

F. Able Seaman (b) (6), (b) (7)(C)

G. Able Seaman (b) (6), (b) (7)(C)

H. Boatswain (b) (6), (b) (7)(C)